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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,726	04/02/2004	Jens-Uwe Gleu	203-029	9461

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EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/815,726

Applicant(s)

GLEU, JENS-UWE

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/2/04, 7/22/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed 4/2/04 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. Applicant failed to include copies of the foreign references.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: elements 10b and Hu in figure 1. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the vehicle and chassis first recited in claim 3 and the bracket and part being rotationally non-symmetrical about the longitudinal axis must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Specification***

4. The abstract of the disclosure is objected to because it exceeds 150 words. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6637733 to Weitzenhof et al. in view of US Patent 5855525 to Turner.

Re: claims 1, 4, 6, and 7. Weitzenhgof et al. show in figure 1 a double rolling-lobe air spring 1 comprising: an air spring cover 7 defining an upper roll-off piston 2 having a lower end; a lower roll-off piston 3 at a distance from the upper roll-off piston which distance varies during operation of the air spring and said lower roll-off piston having an upper end, a resilient member 5 having a first end connected to said lower end of said upper roll-off piston and a second end connected to said upper end of said lower roll-off piston; said resilient member forming an upper rolling lobe shown in the area of element 24 during operation of the air spring; said resilient member and the upper roll off piston conjointly defining a region at said upper rolling lobe; and, a part 23 made of a material mounted in the vicinity of said upper rolling lobe to function as a contaminant catcher thereby shielding said region from contaminants from the ambient and preventing an accumulation thereof in said region.

Weitzenhof et al. fail to include the limitation of the part specifically being formed of a foamed material.

Turner teaches in col. 15 lines 22-24 the limitation of a region 38 being protected by a part 40 being made of a foamed material.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the part of Weitzenhof et al. to have been made of a foamed material, as taught by Turner, in order to provide a means of protecting the region from dirt as taught by Turner in col. 15 lines 24-25.

Re: claim 2. Weitzenhof et al., as modified, teach in figure 1 of Weitzenhof et al. the limitation of the air spring further comprising a bracket 25 disposed in surrounding relationship to the resilient member, the part being mounted as an insert between the resilient member and the bracket.

Re: claim 3. Weitzenhof et al., as modified, teach in col. 2 lines 52-53 the limitation wherein the air spring is mounted in a vehicle having chassis and the part made of foamed material is configured as an annular member, and the annular member is attached to the outer wall of the resilient member as shown in figure 1 of Weitzenhof et al. and is in elastic contact with the chassis via intervening elements.

Re: claim 8. Weitzenhof et al., as modified, describe the invention substantially as set forth above, but do not include the limitation of the bracket and the part being rotationally non-symmetrical about the longitudinal axis.

In *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) the court held that the configuration of a claimed object was a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration is significant. It would have been obvious to one of ordinary skill in the art

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at the time the invention was made to have modified the shape of the spring such that the bracket and the part were rotationally non-symmetrical about the longitudinal axis in order to provide to fit in a particularly shaped area of the vehicle depending on the layout in the vicinity of the spring.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6637733 to Weitzenhof et al. in view of US Patent 5855525 to Turner as applied to claim 2 above, and further in view of 1414623 to Church.

Weitzenhof et al., as modified, describe the invention substantially as set forth above, but do not include the limitation of a sheet metal assembly defining the bracket.

Church teaches in lines 71-72 of pg. 1 the limitation of a bracket 5 being defined by a sheet metal assembly.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the bracket of Weitzenhof et al., as modified, to have been defined by a sheet metal assembly, as taught by Church, in order to provide a means of maintaining adequate structural integrity to ensure proper operation of the spring.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents 3582027 to Hackbarth and 3010715 to Slemmons et al. teach similar air springs having an insert between a resilient member and a bracket.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 703-308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*mmb*

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January 23, 2005

*Melody M. Burch*  
*1/23/05*